

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas

87th General Assembly

Regular Session, 2009

A Bill

DRAFT MBM/MBM

HOUSE BILL

By: Representative Wills

By: Senator T. Smith

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS SCHOLARSHIP LOTTERY ACT; TO ESTABLISH, OPERATE, AND REGULATE STATE LOTTERIES AS AUTHORIZED BY THE ARKANSAS CONSTITUTION; AND FOR OTHER PURPOSES.

Subtitle

THE ARKANSAS SCHOLARSHIP LOTTERY ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23 is amended to add an additional chapter to read as follows:

CHAPTER 115

ARKANSAS SCHOLARSHIP LOTTERY ACT

SUBCHAPTER 1

GENERAL PROVISIONS

23-115-101. Short title.

This chapter shall be known and may be cited as the "Arkansas Scholarship Lottery Act".

23-115-102. Legislative intent.

It is found and declared by the General Assembly that:

(1) Net proceeds of lotteries conducted under this chapter shall

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1 be used to:

2 (A) Fund and provide for scholarships and grants to
3 citizens of the State of Arkansas enrolled in public and private nonprofit
4 two-year and four-year colleges and universities located within the state;
5 and

6 (B) Supplement, not supplant, nonlottery educational
7 resources;

8 (2) Lotteries shall be operated and managed in a manner that:

9 (A) Provides continuing entertainment to the public;

10 (B) Maximizes revenues; and

11 (C) Ensures that the lotteries are operated with
12 integrity, dignity, adequate internal controls, and free of political
13 influence; and

14 (3) The Arkansas Lottery Commission shall be accountable to the
15 General Assembly and to the public through a system of audits and reports.

16
17 23-115-103. Definitions.

18 As used in this chapter:

19 (1) "Administrative expenses" means operating expenses,
20 excluding amounts set aside for prizes, regardless of whether the prizes are
21 claimed and excluding amounts held as a fidelity fund under § 23-115-603;

22 (2)(A) "Casino gambling" means a location or business for the
23 purposes of conducting illegal gambling activities, including without
24 limitation activities under § 5-66-101 et seq. that are not authorized under
25 this chapter.

26 (B) "Casino gambling" does not include the sale and
27 purchase of tickets or shares;

28 (3) "Female-owned business" means a business:

29 (A) Which is at least fifty-one percent (51%) owned and
30 controlled by one (1) or more females; and

31 (B) Whose management and daily business operations are
32 under the control of one (1) or ore females;

33 (4) "Gift" means any payment, entertainment, advance, services,
34 or anything of value, unless consideration of equal or greater value has been
35 given therefore;

36 (5) "Immediate family" means the father, mother, sister,

brother, husband, wife, child, grandmother, grandfather, grandchild, in-laws, or any individual acting as parent or guardian;

(6) "Lobbying" means communicating directly or soliciting others to communicate with any member of the Arkansas Lottery Commission, the Director of the Arkansas Lottery Commission, or any employee of the Arkansas Lottery Commission with the purpose of influencing the actions of the Arkansas Lottery Commission;

(7) "Local government" means:

(A) A county;

(B) A city of the first class or city of the second class;

(C) An incorporated town; or

(D) Any other district or political subdivision or any board, commission, or agency of these political subdivisions;

(8)(A) "Lottery" means a game of chance approved by the Arkansas Lottery Commission and operated under this chapter.

(B) "Lottery" includes without limitation:

(i) An instant ticket;

(ii) A draw game; and

(iii) Participation in a multistate or multisovereign game.

(C) "Lottery" does not include:

(i) Casino gambling;

(ii) A video lottery;

(iii) Pari-mutuel wagering on horse racing or greyhound racing governed by the Arkansas Horse Racing Law, § 23-110-101 et seq., or the Arkansas Greyhound Racing Law, § 23-111-101 et seq., whether pari-mutuel wagering on live racing, simulcast racing, or races conducted in the past and rebroadcast by electronic means;

(iv) Wagering on electronic games of skill under the Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act, 23-113-101 et seq.; or

(v) Conducting or participating in charitable bingo and raffles under the Charitable Bingo and Raffles Enabling Act, 23-114-101 et seq.;

(9)(A) "Major procurement contract" means a gaming product or service costing more than seventy-five thousand dollars (\$75,000), including

1 without limitation:

- 2 (i) A major advertising contract;
- 3 (ii) An annuity contract;
- 4 (iii) A prize payment agreement;
- 5 (iv) A consulting service;
- 6 (v) Equipment;
- 7 (vi) Tickets; and
- 8 (vii) Any other product and service unique to
- 9 lotteries.

10 (B) "Major procurement contract" does not include a
11 material, supply, equipment, or service common to the ordinary operations of
12 the commission;

13 (10) "Member of a minority" means an individual who is a member
14 of a race that comprises less than fifty percent (50%) of the total
15 population of the state;

16 (11) "Minority business" means a business that is owned by:

17 (A) An individual who is a member of a minority who
18 reports as his or her personal income for Arkansas income tax purposes the
19 income of the business;

20 (B) A partnership in which a majority of the ownership
21 interest is owned by one (1) or more members of a minority who report as
22 their personal income for Arkansas income tax purposes more than fifty
23 percent (50%) of the income of the partnership; or

24 (C) A corporation organized under the laws of this state
25 in which a majority of the common stock is owned by one (1) or more members
26 of a minority who report as their personal income for Arkansas income tax
27 purposes more than fifty percent (50%) of the distributed earnings of the
28 corporation;

29 (12) "Net proceeds" means all revenue derived from the sale of
30 tickets or shares and all other moneys derived from a lottery less operating
31 expenses;

32 (13) "Operating expenses" means all costs of doing business,
33 including without limitation:

34 (A) Prizes, commissions, and other compensation paid to
35 retailers;

36 (B) Advertising and marketing costs;

- 1 (C) Personnel costs;
2 (D) Capital costs;
3 (E) Depreciation of property and equipment;
4 (F) Funds for compulsive gambling education and treatment;
5 (G) The payment of sums to the Arkansas State Claims
6 Commission for the reconciliation of valid claims against the Arkansas
7 Lottery Commission;
8 (H) Payments for the cost of a state and federal criminal
9 background check;
10 (I) Amounts annually transferred to a fidelity fund under
11 § 23-115-603; and
12 (J) Amounts paid to governmental entities for goods or
13 services provided to the commission, including without limitation services
14 provided by the Division of Legislative Audit;
15 (14) "Person" means any individual, corporation, partnership,
16 unincorporated association, or other legal entity;
17 (15)(A) "Public official" means a member of the General Assembly
18 or an elected constitutional officer.
19 (B) "Public official" includes an individual during the
20 time between the date he or she was elected and the date he or she took
21 office;
22 (16) "Retailer" means a person who sells tickets or shares on
23 behalf of the commission under a contract;
24 (17) "Share" means any intangible evidence of participation in a
25 lottery;
26 (18) "Ticket" means any tangible evidence issued by a lottery to
27 provide participation in a lottery;
28 (19)(A) "Vendor" means a person who provides or proposes to
29 provide goods or services to the commission under a major procurement
30 contract.
31 (B) "Vendor" does not include:
32 (i) An employee of the commission;
33 (ii) A retailer; or
34 (iii) A state agency or instrumentality.
35 (C) "Vendor" includes a corporation whose shares are
36 publicly traded and that is the parent company of the contracting party in a

1 major procurement contract; and

2 (20) "Video lottery" means a lottery game that allows a game to
 3 be played using an electronic computer and an interactive computer terminal
 4 device:

5 (A) That is equipped with a video screen and keys and a
 6 keyboard or other equipment allowing input by an individual player;

7 (B) Into which the player inserts coins, currency,
 8 vouchers, or tokens as consideration in order for play to be available; and

9 (C) Through which the player may receive free games,
 10 coins, tokens, or credits that may be redeemed for cash, annuitized payments
 11 over time, a noncash prize, or nothing, as may be determined wholly or
 12 predominantly by chance.

13 14 SUBCHAPTER 2

15 ARKANSAS LOTTERY COMMISSION

16
17 23-115-201. Arkansas Lottery Commission – Creation – Venue.

18 (a) There is created the "Arkansas Lottery Commission" to establish
 19 and oversee the operation of a lottery.

20 (b) The commission is a self-supporting and revenue-raising agency of
 21 the state.

22 (c) The commission shall reimburse other governmental entities that
 23 provide goods or services to the commission.

24
25 23-115-202. Members – Duties.

26 (a)(1) The Arkansas Lottery Commission consists of nine (9) members as
 27 follows:

28 (A) Three (3) members appointed by the Governor;

29 (B) Three (3) members appointed by the Speaker of the
 30 House of Representatives; and

31 (C) Three (3) members appointed by the President Pro
 32 Tempore of the Senate.

33 (2) The members of the commission shall elect annually:

34 (A) A chair; and

35 (B) Other officers necessary to carry on its business.

36 (b)(1) Of the initial appointees to the commission by the Governor:

1 (A) One (1) member shall serve a term of two (2) years;

2 (B) One (1) member shall serve a term of four (4) years;

3 and

4 (C) One (1) member shall serve a term of six (6) years.

5 (2) Of the initial appointees to the commission by the President

6 Pro Tempore of the Senate:

7 (A) One (1) member shall serve a term of two (2) years;

8 (B) One (1) member shall serve a term of four (4) years;

9 and

10 (C) One (1) member shall serve a term of six (6) years.

11 (3) Of the initial appointees to the commission by the Speaker

12 of the House of Representatives:

13 (A) One (1) member shall serve a term of two (2) years;

14 (B) One (1) member shall serve a term of four (4) years;

15 and

16 (C) One (1) member shall serve a term of six (6) years.

17 (4) All succeeding appointments to the commission shall be for
18 terms of six (6) years.

19 (5) The appointing authorities shall determine the length of
20 terms of the initial members of the commission.

21 (6) A member of the commission shall not serve more than two (2)
22 terms.

23 (c) A vacancy on the commission shall be filled by the appointing
24 authority for the unexpired portion of the term in which it occurs.

25 (d)(1) The commission shall meet at least monthly upon the call of the
26 chair.

27 (2) A majority of the total membership of the commission
28 constitutes a quorum.

29 (e) Members of the commission may receive expense reimbursement under
30 § 25-16-901 et seq.

31
32 23-115-203. Qualifications of commission members.

33 (a)(1) In making appointments to the Arkansas Lottery Commission, the
34 appointing authorities under § 23-115-202 may consider the composition of the
35 state with regard to geographic representation and gender, ethnic, racial,
36 and age composition as well as legal, financial, or marketing experience.

1 (2) Individuals appointed to the commission shall be residents
2 of the State of Arkansas.

3 (b)(1) An individual considered for appointment to the commission
4 shall apply to the Identification Bureau of the Department of Arkansas State
5 Police for a state and federal criminal background check, to be conducted by
6 the Identification Bureau of the Department of Arkansas State Police and the
7 Federal Bureau of Investigation.

8 (2) The check shall conform to the applicable federal standards
9 and shall include the taking of fingerprints.

10 (3) The applicant shall sign a release of information.

11 (4) The commission shall be responsible for the payment of any
12 fee associated with the criminal background check.

13 (5) Upon completion of the criminal background check, the
14 Identification Bureau of the Department of Arkansas State Police shall
15 forward to the appointing authority all releasable information obtained
16 concerning the applicant.

17 (c) An individual shall not be appointed as a commission member if the
18 individual has:

19 (1) Been convicted of a felony or a gambling offense in a state
20 or federal court of the United States;

21 (2) Been convicted of a crime involving moral turpitude; or

22 (3) Entered into a plea agreement to avoid felony prosecution.

23 (d) Each member of the commission, before entering upon the discharge
24 of the duties of a commissioner, shall file with the Secretary of State the
25 constitutional oath of office.

26 (e) Upon the end of his or her term, a former member of the commission
27 shall not:

28 (1) Represent a vendor or retailer before the commission for a
29 period of two (2) years; or

30 (2) Engage in lobbying on any matter related to the operation or
31 conduct of the lottery for a period of two (2) years.

32
33 23-115-204. Lottery Retailer Advisory Board.

34 (a)(1) The Chair of the Arkansas Lottery Commission, subject to the
35 approval of a majority of a quorum of the commission, shall appoint a Lottery
36 Retailer Advisory Board to be composed of ten (10) retailers representing the

1 broadest possible spectrum of geographical, racial, and business
2 characteristics of retailers.

3 (2) The board shall advise the Arkansas Lottery Commission on
4 retail aspects of lotteries and present the concerns of retailers throughout
5 the state.

6 (b)(1) Except as provided in subdivision (b)(2) of this section, each
7 member appointed to the board shall serve a term of two (2) years.

8 (2)(A) Five (5) of the initial appointees shall serve initial
9 terms of one (1) year.

10 (B) The initial appointees shall draw lots to determine
11 which five (5) members shall serve a one-year term.

12 (3) No member of the board shall serve more than six (6) terms.

13 (c)(1) The board shall provide by rule for its operating procedures.

14 (2) Members shall serve without compensation or reimbursement of
15 expenses.

16 (3) The board may report to the commission and the Arkansas
17 Lottery Commission Legislative Oversight Committee in writing at any time.

18 (4) The commission may invite the board to make an oral
19 presentation to the commission at any meeting of the commission.

20 (d) The following shall not be appointed as a member of the board:

21 (1) A member of the immediate family of a member of the
22 commission;

23 (2) A member of the immediate family of the director of the
24 commission; or

25 (3) A member of the immediate family of an employee of the
26 commission.

27
28 23-115-205. Powers of Arkansas Lottery Commission.

29 (a) The Arkansas Lottery Commission has all powers necessary or
30 convenient to its usefulness in carrying out this chapter that are not in
31 conflict with the Arkansas Constitution or the United States Constitution,
32 including without limitation the following powers:

33 (1) To adopt and alter a seal;

34 (2) To adopt, amend, and repeal rules for the regulation of its
35 affairs and the conduct of its business, to prescribe the duties of officers
36 and employees of the commission, and to perform other matters as the

1 commission determines;

2 (3) To procure or to provide insurance;

3 (4) To hold copyrights, trademarks, and service marks and
4 enforce its rights with respect to those copyrights, trademarks, and service
5 marks;

6 (5) To initiate, supervise, and administer the operation of the
7 lottery in accordance with this chapter and rules adopted under this chapter;

8 (6) To enter into written agreements with one (1) or more other
9 states or sovereigns for the operation, participation in marketing, and
10 promotion of multistate or multisovereign games;

11 (7) To conduct market research as necessary or appropriate;

12 (8) To acquire or lease real property and make improvements to
13 the real property and acquire by lease or by purchase personal property,
14 including without limitation:

15 (A) Computers;

16 (B) Mechanical, electronic, and on-line equipment and
17 terminals;

18 (C) Intangible property, including without limitation
19 computer programs, computer systems, and computer software; and

20 (D) Broadcast equipment.

21 (9) To administer oaths, take depositions, issue subpoenas, and
22 compel the attendance of witnesses and the production of books, papers,
23 documents, and other evidence relative to any investigation or proceeding
24 conducted by the commission;

25 (10) To appoint, select, and employ officers, agents, and
26 employees, including professional and administrative staff and personnel and
27 hearing officers, to conduct hearings required by this chapter and to fix
28 their compensation and pay their expenses as authorized by Arkansas law;

29 (11) To select and contract with vendors and retailers;

30 (12) To enter into contracts or agreements with state or local
31 law enforcement agencies for the performance of law enforcement, background
32 investigations, and security checks;

33 (13) Conduct background investigations and credit investigations
34 on each potential retailer;

35 (14) Supervise ticket or share validation and lottery drawings;

36 (15) Inspect at times determined solely by the commission the

1 facilities of a vendor or a retailer to determine:

2 (A) The integrity of the vendor's product or the
3 operations of the retailer; and

4 (B) Whether the vendor or the retailer is in compliance
5 with its contracts;

6 (16) Report any suspected violation of this chapter to the
7 appropriate prosecuting attorney or the Attorney General and to any law
8 enforcement agencies having jurisdiction over the violation;

9 (17) Upon request, provide assistance to the Chief Fiscal
10 Officer of the State, the Legislative Auditor, the appropriate prosecuting
11 attorney, the Attorney General, or a law enforcement agency investigating a
12 violation of this chapter;

13 (18) To enter into contracts of terms and conditions that the
14 commission determines;

15 (19) To establish and maintain banking relationships associated
16 with the maintenance and investment of lottery proceeds, including without
17 limitation the establishment of checking and savings accounts and trust
18 funds;

19 (20) To advertise and promote lotteries;

20 (21) To approve, disapprove, amend, or modify the budget
21 recommended by the director for the operation of the commission;

22 (22) To act as a retailer, to conduct promotions that involve
23 the dispensing of tickets or shares, and to establish and operate a sales
24 facility to sell tickets or shares and any related merchandise;

25 (23)(A) To contract with one (1) or more independent testing
26 laboratories to scientifically test and technically evaluate lottery games,
27 lottery terminals, and lottery operating systems.

28 (B) An independent testing laboratory shall:

29 (i) Have a national reputation which is demonstrably
30 competent; and

31 (ii) Be qualified to scientifically test and
32 evaluate all components of a lottery game, lottery terminal, or lottery
33 operating system.

34 (C) An independent testing laboratory shall not be owned
35 or controlled by a vendor or a retailer; and

36 (24) To adopt and amend rules necessary to carry out and

1 implement its powers and duties, organize and operate the commission,
2 regulate the conduct of lotteries in general, and any other matters necessary
3 or desirable for the efficient and effective operation of lotteries for the
4 convenience of the public.

5 (b) The powers enumerated in subsection (a) of this section:

6 (1) Are in addition to those powers of the commission enumerated
7 elsewhere in this chapter; and

8 (2) Do not limit or restrict any other powers of the commission.

9 (c) The commission may delegate to one (1) or more of its members, to
10 the director, or to any agent or employee of the commission powers and duties
11 as it deems proper.

12
13 23-115-206. Internal controls – Annual audit.

14 (a) To ensure the financial integrity of lotteries, the Arkansas
15 Lottery Commission shall:

16 (1) Establish and maintain effective internal control over
17 financial reporting, including the monitoring of ongoing activities, and
18 comply with the provisions of the Arkansas Constitution and applicable laws,
19 regulations, contracts, agreements, and grants;

20 (2) Establish and maintain effective internal controls to
21 prevent and detect fraud, including without limitation a system of internal
22 audits;

23 (3) Include in any contract with a vendor or a retailer for data
24 processing services or other computer services a provision permitting the
25 Division of Legislative Audit to have access and authority to audit the
26 computer systems of the vendor;

27 (4) Notify the Division of Legislative Audit of all known fraud
28 or suspected fraud or all known or suspected illegal acts involving
29 management or other employees of the commission or others with whom the
30 commission contracts;

31 (5) Inform the Division of Legislative Audit of any known
32 material violations of the Arkansas Constitution, applicable statutes, rules,
33 contracts, agreements, or grants;

34 (6) Prepare the financial statements, including the related
35 notes to the financial statements, of the commission in accordance with
36 generally accepted accounting principles and in accordance with guidelines

1 and timelines established by the Chief Fiscal Officer of the State to permit
2 incorporation into the State's financial statements and to permit the audit
3 of the State's financial statements and the commission's financial statements
4 in a timely manner;

5 (7) Make all financial records and related information available
6 to the Division of Legislative Audit, including the identification of
7 significant vendor relationships in which the vendor has the responsibility
8 for program compliance, in accordance with Arkansas Code § 10-4-416 and § 10-
9 4-424;

10 (8)(A) Submit monthly and annual reports to the Governor and the
11 Arkansas Lottery Commission Legislative Oversight Committee disclosing the
12 total lottery revenues, prize disbursements, operating expenses, and
13 administrative expenses of the commission during the reporting period.

14 (B)(i) The initial annual report shall describe the
15 organizational structure of the commission and summarize the functions
16 performed by each organizational division within the commission.

17 (ii) Future annual reports shall describe any
18 revisions to the organizational structure since the filing of the previous
19 annual report;

20 (9) Maintain weekly or more frequent records of lottery
21 transactions, including without limitation:

22 (A) The distribution of tickets or shares to retailers;

23 (B) Revenues received;

24 (C) Claims for lottery prizes;

25 (D) Lottery prizes paid;

26 (E) Lottery prizes forfeited; and

27 (F) Other financial transactions of the commission;

28 (10)(A) Submit to the cochair of the Arkansas Lottery
29 Commission Legislative Oversight Committee by June 30 of each year a copy of
30 the annual operating budget for the commission for the next fiscal year.

31 (B) The proposed operating budget shall be accompanied by
32 an estimate of the net proceeds to be available for scholarships and grants
33 during the succeeding fiscal year; and

34 (11) Adopt the same fiscal year as that used by state
35 government.

36 (b)(1)(A) The Division of Legislative Audit shall annually audit the

1 Arkansas Lottery Commission.

2 (B) The division may conduct an investigation or audit or
3 prepare special reports regarding the Arkansas Lottery Commission or related
4 entities, scholarships, grants, vendors, retailers, or any other transactions
5 or relationships connected or associated with the commission or its
6 operations, duties, or functions upon the approval of the Legislative Joint
7 Auditing Committee.

8 (2) The commission shall reimburse the Division of Legislative
9 Audit at an hourly rate set by the Legislative Joint Auditing Committee for
10 work performed by the division relating to any audit, investigation, or
11 special report regarding the commission and related entities, scholarships,
12 grants, vendors, retailers, or other related matters.

13 (3) If the commission, the General Assembly, the Arkansas
14 Lottery Commission Legislative Oversight Committee, or the Legislative Joint
15 Auditing Committee requests additional audits or performance reviews of the
16 fiscal affairs or operations of the commission to be conducted by a private
17 certified public accountant or other consultant, the Division of Legislative
18 Audit shall select and contract with appropriate certified public accountants
19 or consultants to provide the services.

20 (B) The division shall contract for the services which
21 shall be paid directly to the contractor by the commission.

22 (C) A copy of any report or management correspondence
23 prepared by the certified public accountants or consultants shall be
24 forwarded to the commission, the Division of Legislative Audit, and the
25 Arkansas Lottery Commission Legislative Oversight Committee.

26 (4) Nothing in this act limits the statutory authority of the
27 Division of Legislative Audit or the responsibilities of the commission or
28 related entities, board members, employees, vendors, retailers, or any other
29 individuals or entities to cooperate with the division or provide information
30 or records requested by the division.

31
32 23-115-207. Rulemaking.

33 (a) The Arkansas Lottery Commission may adopt rules regulating the
34 conduct of lotteries in general, including without limitation rules
35 specifying:

36 (1) The types of lotteries to be conducted;

1 (2)(A) The sale price of tickets or shares and the manner and
2 method of sale.

3 (B)(i) All sales are for cash only.

4 (ii) Payment by checks, credit cards, charge cards,
5 or any form of deferred payment is prohibited;

6 (3) The number and amount of prizes;

7 (4) The method and location of selecting or validating winning
8 tickets or shares;

9 (5) The manner and time of payment of prizes, including without
10 limitation lump-sum payments or installments over a period of years;

11 (6)(A) The manner of payment of prizes to the holders of winning
12 tickets or shares.

13 (B) Winners of five hundred dollars (\$500) or less may
14 claim prizes from any of the following:

15 (i) A retailer; or

16 (ii) The commission.

17 (C)(i) Winners of more than five hundred dollars (\$500)
18 shall claim prizes from the commission.

19 (ii) The commission may establish claim centers
20 throughout the state as it deems necessary;

21 (7) The frequency of lotteries and drawings or selection of
22 winning tickets or shares;

23 (8) The means of conducting drawings;

24 (9)(A) The method to be used in selling tickets or shares.

25 (B) The selling of tickets or shares may include the use
26 of electronic or mechanical devices.

27 (C) The commission shall provide by rule:

28 (i) Specifications and required features for
29 electronic or mechanical devices which may be used to sell tickets or shares;
30 and

31 (ii) Procedures and requirements to prevent the use
32 of electronic or mechanical devices by persons under eighteen (18) years of
33 age.

34 (D) A retailer who knowingly allows a person under
35 eighteen (18) years of age to purchase a lottery ticket from an electronic or
36 mechanical device shall be subject to § 25-15-901;

1 (10) The manner and amount of compensation to retailers; and

2 (11) Any other matters necessary, desirable, or convenient

3 toward ensuring the efficient and effective operation of lotteries, the
4 continued entertainment and convenience of the public, and the integrity of
5 the lottery.

6 (b) The commission may adopt rules requiring the publication of the
7 odds of winning a particular lottery game on a ticket or share.

8 (c)(1) The promulgation of rules under this chapter shall comply with
9 the Arkansas Administrative Procedure Act, § 25-15-201 et seq. However, the
10 commission shall not be required to file rules under § 10-3-309.

11 (2) The promulgation of rules by the commission shall be exempt
12 from § 10-3-309. However, the commission shall file rules with the Arkansas
13 Lottery Commission Legislative Oversight Committee for review at least thirty
14 (30) days before the expiration of the public comment period.

15
16 23-115-207. Sovereign immunity.

17 (a) Nothing in this subchapter shall be construed to waive the
18 sovereign immunity of the State of Arkansas.

19 (b)(1) Except as provided in subdivisions (b)(2) and (3) of this
20 section, claims in contract or in tort against the Arkansas Lottery
21 Commission or its employees shall be filed with the Arkansas State Claims
22 Commission under § 19-10-201 et seq.

23 (2) An award against the Arkansas Lottery Commission greater
24 than ten thousand dollars (\$10,000) shall not be referred to the General
25 Assembly for an appropriation and the Arkansas Lottery Commission shall pay
26 the claim.

27 (3) Written reports under § 19-10-212 shall be filed with the
28 Arkansas Lottery Commission Legislative Oversight Committee.

29
30 23-115-208. Appealing final actions of the Arkansas Lottery
31 Commission.

32 (a) A retailer, vendor, or applicant for a retailer or vendor contract
33 aggrieved by an action of the Arkansas Lottery Commission may appeal that
34 decision to Pulaski County Circuit Court.

35 (b) The court shall hear appeals from decisions of the commission, and
36 based upon the record of the proceedings before the commission, may reverse

the decision of the commission only if the appellant proves the decision to be:

- (1) Clearly erroneous;
- (2) Arbitrary and capricious;
- (3) Procured by fraud;
- (4) A result of substantial misconduct by the commission; or
- (5) Contrary to the United States Constitution, the Arkansas Constitution, or this chapter.

(c) The court may remand an appeal to the commission to conduct further hearings.

(d)(1) A person who appeals the award of a major procurement contract is liable for all costs of appeal and defense if the appeal is denied or the contract award upheld.

(2) If upon the motion of the commission the court finds the appeal to have been frivolous, the cost of appeal and defense shall include without limitation the following expenses of the commission resulting from institution of the appeal:

- (A) Court costs;
- (B) Bond;
- (C) Legal fees; and
- (D) Loss of Income.

23-115-209. Removal of member of Arkansas Lottery Commission.

(a)(1) A member of the Arkansas Lottery Commission may be removed by the appointing authority for:

- (A) Misconduct;
- (B) Incompetency;
- (C) Neglect of duty; or
- (D) Any malfeasance in office.

(2) The appointing authority shall appoint a qualified individual to replace the removed member of the commission to serve the remainder of his or her term.

(b) All orders of removal by the appointing authority shall:

- (1) Be in writing;
- (2) Be delivered to the removed member of the commission or counsel for the removed member; and

1 (3) Specifically set out the grounds relied upon for removal.

2 (c)(1) A removed member of the commission may institute proceedings
3 for review by filing a petition in Pulaski County Circuit Court within thirty
4 (30) days after delivery to him or her or his or her attorney of the
5 appointing authority's order of removal.

6 (2) This petition shall not supersede or stay the order of
7 removal, nor shall any court enter an order to this effect or one that would
8 impair the authority of the appointing authority to appoint a replacement
9 whose service begins immediately upon fulfillment of the normal requirements
10 for assuming office.

11 (d)(1) When the matter is heard by the Pulaski County Circuit Court,
12 it shall be tried de novo without a jury.

13 (2) The appointing authority shall have the burden of proof to
14 show by clear and convincing evidence that cause under subdivision (a)(1) of
15 this section existed for removal of the member of the commission.

16 (3)(A) If the court determines that cause has been shown, it
17 shall enter an order removing the member of the commission in question from
18 office.

19 (B) If the court determines that cause under subdivision
20 (a)(1) of this section has not been shown by clear and convincing evidence,
21 the court shall order the removed member reinstated to his or her position
22 and upon request shall award a reasonable attorney's fee and court costs to
23 the reinstated party.

24 (e)(1) Subject to the restrictions of subsection (c) of this section
25 on supersedeas or stay orders, a removed member of the commission may appeal
26 the decision of the circuit court to the Arkansas Supreme Court.

27 (2) The appointing authority may appeal the decision of the
28 circuit court to the Arkansas Supreme Court, but the appeal shall not
29 preclude the circuit court, in its discretion, from entering an order
30 reinstating the removed member.

31 (f) No commission action in which the appointed replacement
32 participates shall be void, voidable, or in any way subject to invalidation
33 on grounds of participation of the appointed replacement or lack of
34 participation by the removed member in the event that the circuit court or
35 the Arkansas Supreme Court orders the removed member reinstated.

1 SUBCHAPTER 3

2 EMPLOYEES OF ARKANSAS LOTTERY COMMISSION

3
4 23-115-301. Director – Appointment – Duties.

5 (a)(1)(A) The Arkansas Lottery Commission shall appoint the Director
6 of the Arkansas Lottery Commission.

7 (B) The director is an employee of the commission and
8 shall direct the day-to-day operations and management of the commission.

9 (2) The director is vested with powers and duties as specified
10 by the commission and by law.

11 (3) The director serves at the pleasure of the commission.

12 (b)(1) A person considered for appointment as director shall apply to
13 the Identification Bureau of the Department of Arkansas State Police for a
14 state and federal criminal background check, to be conducted by the
15 Identification Bureau of the Department of Arkansas State Police and the
16 Federal Bureau of Investigation.

17 (2) The check shall conform to the applicable federal standards
18 and shall include the taking of fingerprints.

19 (3) The applicant shall sign a release of information.

20 (4) The commission shall be responsible for the payment of any
21 fee associated with the criminal background check.

22 (5) Upon completion of the criminal background check, the
23 Identification Bureau of the Department of Arkansas State Police shall
24 forward to the commission all releasable information obtained concerning the
25 applicant.

26 (d) The commission shall not employ as director an individual who has
27 been convicted of a felony or a crime involving illegal gambling or moral
28 turpitude.

29
30 23-115-302. Duties of director.

31 (a) The Director of the Arkansas Lottery Commission shall direct and
32 supervise all administrative and technical activities related to the
33 operation of the lottery in accordance with this chapter and with rules
34 adopted by the Arkansas Lottery Commission.

35 (b) The Director of the Arkansas Lottery Commission shall:

36 (1) Facilitate the initiation and supervise and administer the

1 operation of the lotteries;

2 (2) Direct personnel as deemed necessary;

3 (3) Employ and compensate persons and firms as deemed necessary;

4 (4) Promote or provide for promotion of lotteries and any
5 functions related to the operation of the lottery;

6 (5) Prepare a budget for the approval of the commission;

7 (6) Require bond from retailers and vendors in amounts as
8 required by the commission;

9 (7) Report monthly to the commission and the Arkansas Lottery
10 Commission Legislative Oversight Committee a complete statement of lottery
11 revenues and expenses for the preceding month and an accompanying statement
12 of net assets; and

13 (8) Perform other duties generally associated with a director of
14 a commission of an entrepreneurial nature.

15 (c) The Director of the Arkansas Lottery Commission may for good cause
16 suspend, revoke, or refuse to renew any contract entered into in accordance
17 with this chapter and the rules of the commission.

18 (d) The Director of the Arkansas Lottery Commission or his or her
19 designee may conduct hearings and administer oaths to persons to assure the
20 security and integrity of lottery operations or to determine the
21 qualifications of or compliance by vendors and retailers.

22
23 23-115-303. Employees – Background investigation.

24 (a) As required by Article 16, Section 4 of the Arkansas Constitution,
25 the General Assembly shall fix the salaries of all employees of the Arkansas
26 Lottery Commission, including without limitation the Director of the Arkansas
27 Lottery Commission.

28 (b) An employee of the commission shall not have a financial interest
29 in a vendor doing business or proposing to do business with the commission.

30 (c) An employee of the commission with decision-making authority shall
31 not participate in a decision involving a retailer with whom the employee has
32 a financial interest.

33 (d)(1) An employee of the commission who leaves the employment of the
34 commission shall not:

35 (A) Represent a vendor or retailer before the commission
36 for a period of two (2) years; or

1 (B) Engage in lobbying on any matter related to the
2 operation or conduct of the lottery for a period of two (2) years.

3 (2)(A) Subdivision (d)(1) of this section shall be supplemental
4 to § 19-11-701 et seq.

5 (B) If any provision of § 19-11-701 et seq. would impose a
6 restriction on a specific employee greater than the restrictions under
7 subdivision (d)(1) of this section, the provision of § 19-11-701 et seq.
8 shall apply.

9 (e)(1) Each person considered for employment by the commission shall
10 apply to the Identification Bureau of the Department of Arkansas State Police
11 for a state and federal criminal background check, to be conducted by the
12 Identification Bureau of the Department of Arkansas State Police and the
13 Federal Bureau of Investigation.

14 (2) The check shall conform to the applicable federal standards
15 and shall include the taking of fingerprints.

16 (3) The applicant shall sign a release of information.

17 (4) The commission shall be responsible for the payment of any
18 fee associated with the criminal background check.

19 (5) Upon completion of the criminal background check, the
20 Identification Bureau of the Department of Arkansas State Police shall
21 forward to the commission all releasable information obtained concerning the
22 applicant.

23 (f) The commission shall not employ an individual who has been
24 convicted of a felony or a crime involving illegal gambling or moral
25 turpitude.

26 (g)(1) The commission shall bond an employee of the commission with
27 access to commission funds or lottery revenue in an amount as provided by the
28 commission and may bond other employees as deemed necessary.

29 (2) Bonds under subdivision (g)(1) of this section shall be
30 fidelity bonds in excess of the amount provided by the Governmental Bonding
31 Board.

32
33 23-115-304. Employees members of Arkansas Public Employees Retirement
34 System.

35 Employees of the commission shall be members of the Arkansas Public
36 Employees Retirement System.

SUBCHAPTER 4
OPERATION OF LOTTERY

23-115-401. Minority businesses.

(a) It is the intent of the General Assembly that the Arkansas Lottery Commission encourage participation by minority and female-owned businesses.

(b) The commission shall adopt a plan that achieves to the greatest extent possible a level of participation by minority and female-owned businesses taking into account the total number of all retailers and vendors, including any subcontractors.

(c) The commission shall undertake training programs and other educational activities to enable minority and female-owned businesses to compete for contracts on an equal basis.

(d) The commission shall employ a minority procurement official to assist with the development and implementation of the plans and programs under subsections (b) and (c) of this section.

(e) The commission shall monitor the results of minority and female-owned business participation and shall report the results of minority and female-owned business participation to the Governor and the Arkansas Lottery Commission Legislative Oversight Committee on at least an annual basis.

23-115-402. Restriction on sales.

(a)(1) Unless authorized to do so in writing by the Director of the Arkansas Lottery Commission, a person shall not sell a ticket or share at a price other than established by the Arkansas Lottery Commission.

(2)(A) Only a retailer holding a valid certificate of authority from the commission shall sell a ticket.

(B) This subsection shall not prevent a person who may lawfully purchase tickets or shares from making a gift of tickets or shares to another.

(b) This chapter shall not prohibit the commission from designating certain of its agents and employees to sell or give tickets or shares directly to the public.

(c) Subject to prior approval by the commission, retailers may give away tickets or shares as a means of promoting goods or services to customers

1 or prospective customers.

2 (d) A retailer shall not sell a ticket or share except from the
3 locations listed in its contract with the commission and as evidenced by the
4 retailer's certificate of authority issued by the commission unless the
5 commission authorizes in writing any temporary location not listed in the
6 retailer's contract.

7 (e)(1) Tickets or shares shall not be sold or given to individuals
8 under eighteen (18) years of age.

9 (2) An individual under eighteen (18) years of age is not
10 eligible to win a lottery prize.

11
12 23-115-403. Attachments, garnishments, or executions withheld from
13 lottery prizes – Validity of tickets or shares – Lottery prize restrictions –
14 Unclaimed lottery prizes.

15 (a) Proceeds of a lottery prize are subject to Arkansas state income
16 tax.

17 (b)(1) Except as otherwise provided in this chapter, attachments,
18 garnishments, or executions authorized and issued under Arkansas law shall be
19 withheld if timely served upon the Arkansas Lottery Commission.

20 (2) Subdivision (b)(1) of this section does not apply to a
21 retailer.

22 (c) The commission shall adopt rules to establish a system of
23 verifying the validity of tickets or shares claimed to win lottery prizes and
24 to effect payment of lottery prizes, except that:

25 (1)(A) A lottery prize, any portion of a lottery prize, or any
26 right of any individual to a lottery prize is not assignable.

27 (B) A lottery prize or any portion of a lottery prize
28 remaining unpaid at the death of a lottery prize winner shall be paid to the
29 estate of the deceased lottery prize winner or to the trustee of a trust
30 established by the deceased lottery prize winner as settlor if:

31 (i) A copy of the trust document or instrument has
32 been filed with the commission along with a notarized letter of direction
33 from the settler; and

34 (ii) No written notice of revocation has been
35 received by the commission before the settlor's death.

36 (C) Following a settlor's death and before any payment to

1 a successor trustee, the commission shall obtain from the trustee a written
2 agreement to indemnify and hold the commission harmless with respect to any
3 claims that may be asserted against the commission arising from payment to or
4 through the trust.

5 (D) Under an appropriate judicial order, an individual
6 shall be paid the lottery prize to which a winner is entitled;

7 (2) A lottery prize shall not be paid arising from claimed
8 tickets that are:

9 (A) Stolen, counterfeit, altered, fraudulent, unissued,
10 produced or issued in error, unreadable, not received, or not recorded by the
11 commission within applicable deadlines;

12 (B) Lacking in captions that conform and agree with the
13 play symbols as appropriate to the particular lottery involved; or

14 (C) Not in compliance with rules and public or
15 confidential validation and security tests of the commission appropriate to
16 the particular lottery involved;

17 (3)(A) A particular lottery prize in any lottery shall not be
18 paid more than one (1) time.

19 (B) If there is a determination that more than one (1)
20 claimant is entitled to a particular lottery prize, the sole remedy of the
21 claimants is the award to each of them of an equal share in the lottery
22 prize;

23 (4)(A) Within one hundred eighty (180) days after the drawing in
24 which a cash lottery prize has been won, a holder of a winning cash ticket or
25 share from an Arkansas lottery or from a multistate or multisoovereign lottery
26 shall claim the cash lottery prize.

27 (B)(i) In an Arkansas lottery in which a player may
28 determine instantly if he or she has won or lost, a player who has won shall
29 claim a cash lottery prize within ninety (90) days after the playing of the
30 instant game.

31 (ii) In any multistate or multisovereign lottery in
32 which a player may determine instantly if he or she has won or lost, a player
33 who has won shall claim a cash lottery prize within one hundred eighty (180)
34 days after the playing of the instant game.

35 (C) If a valid claim is not made for a cash lottery prize
36 within the applicable period, the cash lottery prize constitutes an unclaimed

1 lottery prize for purposes of this section.

2 (D) The commission at any time may alter the time periods
3 under subdivisions (4)(A) and (B) of this section by rule.

4 (5) If the commission conducts one (1) or more draw games, an
5 auditor shall be present at the time of the draw to determine the winners of
6 the particular lottery prizes and to verify the accuracy of the results.

7 (d)(1) A lottery prize shall not be paid upon a ticket or share
8 purchased or sold in violation of this chapter.

9 (2) A lottery prize described in subdivision (d)(1) of this
10 section is an unclaimed lottery prize for purposes of this section.

11 (e) The commission is discharged of all liability upon payment of a
12 lottery prize.

13 (f)(1) A ticket or share shall not be purchased by and a lottery prize
14 shall not be paid to any:

15 (A) Member of the commission;

16 (B) Employee of the commission; or

17 (C) Member of the immediate family of a member of the
18 commission or an employee of the commission.

19 (2) If an officer, employee, agent, or subcontractor of a vendor
20 has access to confidential information that may compromise the integrity of a
21 lottery, a ticket or share shall not be purchased by and a lottery prize
22 shall not be paid to the:

23 (A) Officer, employee, agent, or subcontractor of the
24 vendor; or

25 (B) Immediate family of the officer, employee, agent, or
26 subcontractor of the vendor.

27 (g)(1) Unclaimed prize money is not net lottery proceeds.

28 (2) An annual amount of at least two hundred thousand dollars
29 (\$200,000) shall be directed to the Department of Health for the treatment of
30 compulsive gambling disorder and educational programs related to compulsive
31 gambling disorder.

32 (3) Unclaimed lottery prize money remaining after the payment
33 under subdivision (g)(2) of this section shall be:

34 (A) Added to the pool from which future lottery prizes are
35 to be awarded; or

36 (B) Used for special lottery prize promotions.

23-115-404. Confidential information.

(a)(1) Except as provided in subsection (a)(2) of this section, the Arkansas Lottery Commission shall comply with the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) The following records or information in the possession of the commission shall be treated as confidential and are exempt from public disclosure:

(A) Security measures, systems, or procedures;

(B) Security reports; and

(C) Any records exempt from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) The Division of Legislative Audit shall have full access to the records of the commission.

23-115-405. Intelligence sharing, reciprocal use, or restricted use agreements.

(a) The Arkansas Lottery Commission may enter into an intelligence sharing, reciprocal use, or restricted use agreement with the United States Government, law enforcement agencies, lottery regulation agencies, and gaming enforcement agencies of other jurisdictions that provide for and regulate the use of information provided and received under the agreement.

(b) Records, documents, and information in the possession of the commission received under subsection (a) of this section are not subject to the Freedom of Information Act of 1967, § 25-19-101 et seq., and shall not be released without the permission of the person or agency providing the records, documents, and information.

23-115-406. Authority of local government.

(a) The authority of local government concerning all matters relating to the operation of state lotteries is preempted by this chapter and local government may not take any action, including without limitation the adoption of an ordinance, relating to the operation of state lotteries.

(b) This section shall not prohibit local government from requiring a retailer to obtain an occupational license for any business unrelated to the sale of tickets or shares.

1
2 SUBCHAPTER 5

3 VENDORS
4

5 23-115-501. Vendors – Requirements when submitting a bid, proposal, or
6 offer – Major procurement contract.

7 (a) The Arkansas Lottery Commission shall investigate the financial
8 responsibility, security, and integrity of a vendor who is a finalist in
9 submitting a bid, proposal, or offer as part of a major procurement contract.

10 (b) At the time of submitting a bid, proposal, or offer to the
11 Arkansas Lottery Commission, the commission shall require the following
12 items:

13 (1) A disclosure of the vendor's name and address and, as
14 applicable, the names and addresses of the following:

15 (A)(i) If the vendor is a corporation, the officers,
16 directors, and each stockholder in the corporation.

17 (ii) However, in the case of owners of equity
18 securities of a publicly traded corporation, only the names and addresses of
19 those known to the corporation to own beneficially five percent (5%) or more
20 of the securities need be disclosed;

21 (B) If the vendor is a trust, the trustee and all persons
22 entitled to receive income or benefits from the trust;

23 (C) If the vendor is an association, the members,
24 officers, and directors; and

25 (D) If the vendor is a partnership or joint venture, all
26 of the general partners, limited partners, or joint venturers;

27 (2) A disclosure of all the states and jurisdictions in which
28 the vendor does business and the nature of the business for each state or
29 jurisdiction;

30 (3) A disclosure of all the states and jurisdictions in which
31 the vendor has contracts to supply gaming goods or services, including
32 without limitation lottery goods and services, and the nature of the goods or
33 services involved for each state or jurisdiction;

34 (4)(A) A disclosure of all the states and jurisdictions in which
35 the vendor has applied for, has sought renewal of, has received, has been
36 denied, has pending, or has had revoked a lottery or gaming license of any

1 kind or had fines or penalties assessed to the vendor's license, contract, or
2 operation and the disposition of each instance in each state or jurisdiction.

3 (B) If any lottery or gaming license or contract has been
4 revoked or has not been renewed or any lottery or gaming license or
5 application has been either denied or is pending and has remained pending for
6 more than six (6) months, all of the facts and circumstances underlying the
7 failure to receive a license shall be disclosed;

8 (5) A disclosure of the details of any finding or plea,
9 conviction, or adjudication of guilt in a state or federal court of the
10 vendor for any felony or any other criminal offense other than a traffic
11 violation committed by the persons identified under subdivision (b)(1) of
12 this section;

13 (6) A disclosure of the details of any bankruptcy, insolvency,
14 reorganization, or corporate or individual purchase or takeover of another
15 corporation, including without limitation bonded indebtedness, and any
16 pending litigation of the vendor;

17 (7) A disclosure of the vendor's most recent financial report,
18 including any reports on internal control over financial reporting, and the
19 most recent audit report of the vendor's operation as a service organization;
20 and

21 (8) Additional disclosures and information that the Arkansas
22 Lottery Commission may determine to be appropriate for the procurement
23 involved.

24 (c) If any portion of a vendor's contract is subcontracted, the vendor
25 shall disclose all of the information required by this section for the
26 subcontractor as if the subcontractor were itself a vendor.

27 (d)(1) The Arkansas Lottery Commission shall not enter into a major
28 procurement contract with a vendor that:

29 (A)(i) Has not complied with the disclosure requirements
30 described in subsection (b) of this section;

31 (B) Has been found guilty of a felony related to the
32 security or integrity of a lottery in this or any other jurisdiction; or

33 (C) Has an ownership interest in an entity that has
34 supplied lottery goods or services under contract to the commission regarding
35 the request for proposals pertaining to those particular goods or services.

36 (2) At the option of the commission, the commission may void any

1 major procurement contract with a vendor.

2 (3) The Arkansas Lottery Commission may terminate a major
3 procurement contract with a vendor that does not comply with requirements for
4 periodically updating disclosures during the tenure of the major procurement
5 contract as may be specified in the major procurement contract.

6 (4) This section shall be construed broadly and liberally to
7 achieve full disclosure of all information necessary to allow for a full and
8 complete evaluation by the commission of the competence, integrity,
9 background, and character of vendors for major procurement contracts.

10 (e)(1) A vendor or an applicant for a major procurement contract shall
11 not provide a gift to:

12 (A) The Director of the commission, a member of the
13 commission, or an employee of the commission; or

14 (B) A member of the immediate family of the Director of
15 the commission, a member of the commission, or an employee of the commission.

16 (2) This subsection shall be enforced and penalties shall be
17 assessed in the same manner as § 21-8-301 et seq.

18
19 23-115-502. Vendor – Performance bond or letter of credit – Minority
20 business and female-owned business waiver.

21 (a)(1)(A) At the execution of the major procurement contract with the
22 Arkansas Lottery Commission, each vendor shall post a performance bond or
23 letter of credit from a bank or credit provider acceptable to the commission
24 in an amount as deemed necessary by the commission for that particular bid or
25 major procurement contract.

26 (B) In lieu of the bond, to assure the faithful
27 performance of its obligations, a vendor may deposit and maintain with the
28 commission securities that are:

29 (i) Interest bearing or accruing; and

30 (ii) Rated in one (1) of the three (3) highest
31 classifications by an established, nationally recognized investment rating
32 service.

33 (C) Securities eligible under this section are limited to:

34 (i) Certificates of deposit in an amount fully
35 insured by the Federal Deposit Insurance Corporation issued by solvent banks
36 or savings associations, if the solvent banks or savings associations are:

1 (a) Approved by the commission; and
2 (b) Organized and existing under the laws of
3 this state or under the laws of the United States;

4 (ii) United States Government bonds, notes, and
5 bills for which the full faith and credit of the United States Government is
6 pledged for the payment of principal and interest;

7 (iii) Federal agency securities by an agency or
8 instrumentality of the United States Government; and

9 (iv)(a) Corporate bonds approved by the commission.

10 (b) The entity that issued the bonds shall not
11 be an affiliate or subsidiary of the depositor.

12 (D) The securities shall be held in trust and shall have
13 at all times a market value at least equal to the full amount estimated to be
14 paid annually to the vendor under contract.

15 (2)(A) Because of certain economic considerations, minority businesses
16 and female-owned businesses may not be able financially to comply with the
17 bonding, deposit of securities, or letter of credit requirements of
18 subdivision (a)(1) of this section.

19 (B) Notwithstanding any other provisions of this subsection, in
20 order to assure minority and female-owned business participation in major
21 procurement contracts to the most feasible and practicable extent possible,
22 the Director of the Arkansas Lottery Commission shall waive the bonding,
23 deposit of securities, and letter of credit requirements of subdivision
24 (a)(1) of this section for a period of five (5) years from the time that a
25 minority business or a female-owned business enters into a major procurement
26 contract for any minority or female-owned business that substantiates
27 financial hardship under rules established by the Arkansas Lottery
28 Commission.

29 (b)(1) Each vendor shall be qualified to do business in this state and
30 shall file appropriate tax returns as provided by the laws of this state.

31 (2) All major procurement contracts under this section shall be
32 governed by the laws of this state.

33 (c) A major procurement contract shall not be entered into with a
34 vendor in which a public official has an ownership interest.

35
36 23-115-503. Cancellation, suspension, revocation, or termination of

1 major procurement contract.

2 (a) A major procurement contract executed by the Arkansas Lottery
3 Commission under this chapter shall specify the reasons for which the major
4 procurement contract may be canceled, suspended, revoked, or terminated by
5 the commission. The reasons shall include without limitation:

6 (1) Commission of a violation of this chapter or a rule of the
7 commission;

8 (2) Commission of any fraud, deceit, or misrepresentation;

9 (3) Conduct prejudicial to public confidence in a lottery;

10 (4) The vendor's filing for or being placed in bankruptcy or
11 receivership; or

12 (5) Any material change as determined in the sole discretion of
13 the commission in any matter considered by the commission in executing the
14 major procurement contract with the vendor.

15 (b)(1) If in the discretion of the Director of the Arkansas Lottery
16 Commission or his or her designee, cancellation, denial, revocation,
17 suspension, or rejection of renewal of a major procurement contract is in the
18 best interest of lotteries, the public welfare, or the State of Arkansas, the
19 director or his or her designee may cancel, suspend, revoke, or terminate,
20 after notice and a right to a hearing, a major procurement contract issued
21 under this chapter.

22 (2)(A) The major procurement contract may be temporarily
23 suspended by the director or his or her designee without prior notice pending
24 a hearing.

25 (3) A retailer contract may be suspended, revoked, or terminated
26 by the director or his or her designee for any one (1) or more of the reasons
27 enumerated in subsection (a) of this section.

28 (c) Hearings under this section shall be held in accordance with the
29 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

30
31 23-115-504. Political contributions by vendors.

32 (a) The General Assembly finds:

33 (1) That the integrity of the Arkansas Lottery Commission and
34 lottery games is of utmost importance; and

35 (2) That the people of the State of Arkansas should have
36 confidence and be assured that public officials are free of any untoward

1 political influence by vendors.

2 (b) A vendor or an officer, employee, agent, or subcontractor of a
3 vendor shall not make a political contribution to a public official.

4
5 SUBCHAPTER 6

6 RETAILERS

7
8 23-115-601. Retailers.

9 (a) The General Assembly recognizes that to conduct a successful
10 lottery, the Arkansas Lottery Commission must develop and maintain a state-
11 wide network of retailers that will serve the public convenience and promote
12 the sale of tickets or shares and the playing of lotteries while ensuring the
13 integrity of lottery operations, games, and activities.

14 (b) The commission shall make every effort to provide small retailers
15 a chance to participate in the sales of tickets or shares.

16 (c) The commission shall provide for compensation to retailers in the
17 form of commissions in an amount of not less than five percent (5%) of gross
18 sales of tickets and shares and may provide for other forms of compensation
19 for services rendered in the sale or cashing of tickets or shares.

20 (d)(1) For purposes of display, the commission shall issue a
21 certificate of authority to each person with whom it contracts as a retailer.

22 (2)(A) Every retailer shall post and keep conspicuously
23 displayed in a location on the premises accessible to the public its
24 certificate of authority.

25 (B) A certificate of authority is not assignable or
26 transferable.

27 (e)(1) A person considered for licensure as a retailer shall apply to
28 the Identification Bureau of the Department of Arkansas State Police for a
29 state and federal criminal background check, to be conducted by the
30 Identification Bureau of the Department of Arkansas State Police and the
31 Federal Bureau of Investigation.

32 (2) The check shall conform to the applicable federal standards
33 and shall include the taking of fingerprints.

34 (3) The applicant shall sign a release of information.

35 (4) The commission shall be responsible for the payment of any
36 fee associated with the criminal background check.

1 (5) Upon completion of the criminal background check, the
2 Identification Bureau of the Department of Arkansas State Police shall
3 forward to the commission all releasable information obtained concerning the
4 applicant.

5 (f)(1) The commission shall develop a list of objective criteria upon
6 which the qualification of retailers shall be based.

7 (2) The commission shall develop separate criteria to govern the
8 selection of retailers of instant tickets.

9 (3) In developing the criteria, the commission shall consider
10 certain factors, including without limitation:

11 (A) The applicant's financial responsibility;

12 (B) Security of the applicant's place of business or
13 activity;

14 (C) Accessibility to the public;

15 (D) The applicant's integrity; and

16 (E) The applicant's reputation.

17 (4) The commission shall not consider political affiliation,
18 activities, or monetary contributions to political organizations or
19 candidates for any public office.

20 (5) The criteria shall include without limitation the following:

21 (A)(i) The applicant shall be current in filing all
22 applicable tax returns to the State of Arkansas and in payment of all taxes,
23 interest, and penalties owed to the State of Arkansas, excluding items under
24 formal appeal under applicable statutes.

25 (ii) The Department of Finance and Administration
26 shall provide to the commission the information required under subdivision
27 (e)(5)(A)(i) of this section;

28 (B) The commission shall not select as a lottery retailer
29 any person who:

30 (i) Has been convicted of a criminal offense related
31 to the security or integrity of a lottery in this or any other jurisdiction;

32 (ii)(a) Has been convicted of any illegal gambling
33 activity, false statements, false swearing, or perjury in this or any other
34 jurisdiction or convicted of any crime punishable by more than one (1) year
35 of imprisonment or a fine of more than one thousand dollars (\$1,000), or
36 both.

1 (b) Subdivision (e)(5)(B)(ii)(a) of this
2 section shall not apply if the person's civil rights have been restored and
3 at least five (5) years have elapsed from the date of the completion of the
4 sentence without a subsequent conviction of a crime described in subdivision
5 (e)(5)(B)(ii)(a) of this section;

6 (iii) Has been found to have violated this chapter
7 or any rule, policy, or procedure of the commission unless:

8 (a) Ten (10) years have passed since the
9 violation; or

10 (b) The commission finds the violation both
11 minor and unintentional in nature;

12 (iv) Is a vendor or an employee or agent of a vendor
13 doing business with the commission;

14 (v) Is a member of the immediate family of a member
15 of the commission;

16 (vi) Has made a statement of material fact to the
17 commission knowing the statement to be false; or

18 (vii)(a) Is engaged exclusively in the business of
19 selling tickets or shares.

20 (b) Subdivision (e)(5)(B)(vii)(a) of this
21 section does not preclude the commission from selling or giving away tickets
22 or shares for promotional purposes;

23 (C)(i) A person applying to become a retailer shall be
24 charged a uniform application fee determined by rule for each lottery outlet.

25 (ii) The application fee shall take into account the
26 cost of a state and federal criminal background check under subsection (e) of
27 this section; and

28 (D) All retailer contracts may be renewable annually in
29 the discretion of the commission unless canceled or terminated by the
30 commission.

31 (f)(1) A retailer or an applicant to be a retailer shall not provide a
32 gift to:

33 (A) The Director of the commission, a member of the
34 commission, or an employee of the commission; or

35 (B) A member of the immediate family of the Director of
36 the commission, a member of the commission, or an employee of the commission.

1 (2) This subsection shall be enforced and penalties shall be
2 assessed in the same manner as § 21-8-301 et seq.

3
4 23-115-602. Retailer contract.

5 (a) A retailer contract is not transferable or assignable.

6 (b) A retailer shall not contract with any person for lottery goods or
7 services except with the approval of the Arkansas Lottery Commission.

8 (c) Tickets and shares shall be sold only by the retailer stated on
9 the retailer's certificate of authority issued by the commission under this
10 chapter.

11
12 23-115-603. Fidelity fund – Retailer fee – Reserve account to cover
13 losses – Retailer bond.

14 (a)(1) The Arkansas Lottery Commission shall establish a fidelity fund
15 separate from all other funds and shall assess each retailer an annual fee
16 not to exceed one hundred dollars (\$100) per sales location.

17 (2) Moneys deposited into the fidelity fund may:

18 (A) Be invested or deposited into one (1) or more
19 interest-bearing accounts;

20 (B) Used to cover losses the commission experiences due to
21 nonfeasance, misfeasance, or malfeasance of a retailer; and

22 (C) Used to purchase blanket bonds covering the commission
23 against losses from all retailers.

24 (3) At the end of each fiscal year, the commission shall pay to
25 the trust account managed and maintained by the Department of Higher
26 Education any amount in the fidelity fund that exceeds five hundred thousand
27 dollars (\$500,000), and the funds shall be considered net proceeds from the
28 lottery.

29 (b)(1) A reserve account may be established as a general operating
30 expense to cover amounts deemed uncollectable.

31 (2) The commission shall establish procedures for minimizing any
32 losses that may be deemed uncollectable and shall exercise and exhaust all
33 available options in those procedures before writing off amounts to this
34 account.

35 (c)(1) The commission shall require a retailer to post an appropriate
36 bond, as determined by the commission, using an insurance company acceptable

1 to the commission.

2 (2) The amount of the bond shall not exceed the applicable
3 district sales average of tickets for two (2) billing periods.

4 (d)(1) In its discretion, the commission may allow a retailer to
5 deposit and maintain with the commission securities that are interest bearing
6 or accruing.

7 (2) Securities eligible under this subsection are limited to:

8 (A) Certificates of deposit in an amount fully insured by
9 the Federal Deposit Insurance Corporation issued by solvent banks or savings
10 associations organized and existing under the laws of this state or under the
11 laws of the United States;

12 (B) United States Government bonds, notes, and bills for
13 which the full faith and credit of the United States is pledged for the
14 payment of principal and interest; or

15 (C) Federal agency securities by an agency or
16 instrumentality of the United States Government.

17 (3) The securities shall be held in trust in the name of the
18 commission.

19
20 23-115-604. Cancellation, suspension, revocation, or termination of
21 retail contract.

22 (a) A retail contract executed by the Arkansas Lottery Commission under
23 this chapter shall specify the reasons for which the retail contract may be
24 canceled, suspended, revoked, or terminated by the commission. The reasons
25 shall include without limitation:

26 (1) Commission of a violation of this chapter or a rule of the
27 commission;

28 (2) Failure to accurately or timely account for tickets, lottery
29 games, revenues, or prizes as required by the commission;

30 (3) Commission of any fraud, deceit, or misrepresentation;

31 (4) Insufficient sales;

32 (5) Conduct prejudicial to public confidence in a lottery;

33 (6) The retailer's filing for or being placed in bankruptcy or
34 receivership;

35 (7) Any material change as determined in the sole discretion of
36 the commission in any matter considered by the commission in executing the

1 contract with the retailer; or

2 (8) Failure to meet any of the objective criteria established by
3 the commission under this chapter.

4 (b)(1) If in the discretion of the Director of the Arkansas Lottery
5 Commission or his or her designee, cancellation, denial, revocation,
6 suspension, or rejection of renewal of a retailer contract is in the best
7 interest of lotteries, the public welfare, or the State of Arkansas, the
8 director or his or her designee may cancel, suspend, revoke, or terminate,
9 after notice and a right to a hearing, a retailer contract issued under this
10 chapter.

11 (2)(A) The retailer contract may be temporarily suspended by the
12 director or his or her designee without prior notice pending a hearing.

13 (3) A retailer contract may be suspended, revoked, or terminated
14 by the director or his or her designee for any one (1) or more of the reasons
15 enumerated in subsection (a) of this section.

16 (4) Hearings under subsection (b) of this section shall be held
17 in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
18 seq.

19
20 23-115-605. Retailers – Fiduciary duty – Protection against loss.

21 (a)(1) All proceeds from the sale of the Arkansas Lottery Commission
22 tickets or shares constitute a trust fund until paid to the commission either
23 directly or through the commission's authorized collection representative.

24 (2) A retailer and officers of a retailer's business have a
25 fiduciary duty to preserve and account for lottery proceeds, and retailers
26 are personally liable for all lottery proceeds.

27 (3) Lottery proceeds include without limitation:

28 (A) Unsold instant tickets received by a retailer;

29 (B) Cash proceeds of the sale of any lottery products;

30 (C) Net of allowable sales commissions; and

31 (D) Credit for lottery prizes sold to or paid to winners
32 by retailers.

33 (4) Sales proceeds and unused instant tickets shall be delivered
34 to the commission or its authorized collection representative upon demand.

35 (b)(1) The commission shall require retailers to place all lottery
36 proceeds due the commission in accounts in institutions insured by the

1 Federal Deposit Insurance Corporation not later than the close of the next
2 banking day after the date of their collection by the retailer until the date
3 they are paid over to the commission.

4 (2) At the time of the deposit, lottery proceeds shall be deemed
5 to be the property of the commission.

6 (3) The commission may require a retailer to establish a single
7 separate electronic funds transfer account when available for the purpose of:

8 (A) Receiving moneys from ticket or share sales;

9 (B) Making payments to the commission; and

10 (C) Receiving payments for the commission.

11 (4) Unless otherwise authorized in writing by the commission,
12 each retailer shall establish a separate bank account for lottery proceeds
13 that shall be kept separate and apart from all other funds and assets and
14 shall not be commingled with any other funds or assets.

15 (c) When an individual who receives proceeds from the sale of tickets
16 or shares in the capacity of a retailer becomes insolvent or dies insolvent,
17 the proceeds due the commission from the individual or his or her estate have
18 preference over all debts or demands.

19 (c) If the commission determines that a retailer failed to comply with
20 subdivision (b) of this section three (3) times within any consecutive
21 twenty-four-month period, the commission may refer the retailer to the
22 Department of Finance and Administration with a recommendation that the
23 Department of Finance and Administration pursue business closure against the
24 retailer as provided in § 26-18-1001 et seq.

25
26 23-115-606. Retailer – Rental payments based on percentage of retail
27 sales.

28 If a retailer's rental payments for the business premises are
29 contractually computed, in whole or in part, on the basis of a percentage of
30 retail sales and the computation of retail sales is not explicitly defined to
31 include sales of tickets or shares in a lottery, only the compensation
32 received by the retailer from the Arkansas Lottery Commission may be
33 considered the amount of the lottery retail sale for purposes of computing
34 the rental payment.

35
36 SUBCHAPTER 7

PROCUREMENTS

23-115-701. Procurements – Major procurement contracts – Competitive bidding.

(a)(1) The commission may purchase, lease, or lease-purchase goods or services as necessary for effectuating the purposes of this chapter.

(2) The commission may make procurements that integrate functions, including without limitation:

(A) Lottery design;

(B) Ticket distribution to retailers;

(C) Supply of goods and services; and

(D) Advertising.

(3) In all procurement decisions, the commission shall:

(A) Take into account the particularly sensitive nature of lotteries; and

(B) Act to promote and ensure;

(i) Security, honesty, fairness, and integrity in the operation and administration of lotteries; and

(ii) The objectives of raising net proceeds for the benefit of scholarships and grants.

(b) Except as provided in subsection (c) and (d) of this section, the Arkansas Lottery Commission shall comply with the Arkansas Procurement Law, § 19-11-201 et seq.

(c)(1) The commission shall arrange for the solicitation and receipt of competitive bids for major procurement contracts.

(2) The commission shall not be required to accept the lowest responsible bid for major procurement contracts but shall select a bid that the commission feels provides the greatest long-term benefit to the state, the greatest integrity for the commission, and the best service and products for the public.

(3) The commission shall adopt rules concerning major procurement contracts.

(d) In any bidding process, the commission may administer its own bidding and procurement or may utilize the services of the Department of Finance and Administration.

(e)(1) All proposed major procurement contracts shall be filed with

1 the Arkansas Lottery Commission Legislative Oversight Committee for review
2 before the execution date of the contract.

3 (2) The committee shall provide the commission with its review
4 as to the propriety of the contract within thirty (30) days after receipt of
5 the proposed contract.

6
7 SUBCHAPTER 8
8 LOTTERY PROCEEDS
9

10 23-115-801. Lottery proceeds.

11 (a)(1) All lottery proceeds are the property of the Arkansas Lottery
12 Commission.

13 (2)(A) The commission shall pay its operating expenses from its
14 lottery proceeds.

15 (B)(i) An amount of lottery proceeds determined by the
16 commission to maximize net proceeds shall be made available as prize money.

17 (ii)(a) Subdivision (a)(2)(B)(i) of this section
18 does not create any lien, entitlement, cause of action, or other private
19 right.

20 (b) In setting the terms of its lotteries, the
21 commission shall determine any rights of holders of tickets or shares.

22 (3) The percentage of lottery proceeds determined by the
23 commission to be net proceeds shall equal an amount determined by the
24 commission to maximize net proceeds.

25 (b)(1) On or before the fifteenth day of each month, the commission
26 shall transfer to a trust account separate and apart from the State Treasury
27 the amount of all net proceeds during the preceding month.

28 (2) Upon their deposit into the net proceeds trust account, the
29 net proceeds shall be managed and maintained by the commission and shall be
30 used to fund or provide for scholarships and grants to citizens of this state
31 enrolled in public and private nonprofit two-year and four-year colleges and
32 universities located within the state.

33
34 23-115-802. Disposition of funds.

35 (a)(1) To effectuate the Arkansas Lottery Commission's purposes, the
36 commission may borrow moneys from the State of Arkansas or accept and expend

1 moneys from the State of Arkansas and shall repay any sums borrowed from the
2 state as soon as practicable.

3 (2) As used in this section, "purposes" includes without
4 limitation the payment of the initial expenses of initiation, administration,
5 and operation of the commission and lotteries.

6 (3) The commission shall not issue bonds for any purpose.

7 (b)(1) The commission shall be self-sustaining and self-funded.

8 (2)(A) Except as provided in subsection (a) of this section,
9 moneys in the state general fund shall not be used or obligated to pay the
10 expenses of the commission or prizes of a lottery.

11 (B) A claim for the payment of an expense of a lottery or
12 prizes of a lottery shall not be made against any moneys other than moneys
13 credited to the commission's operating account.

14 15 16 SUBCHAPTER 9

17 PENALTIES

18
19 23-115-901. Sale of ticket or share to person under 18 years of age
20 prohibited – Penalty.

21 (a) A person who knowingly sells a ticket or share to a person under
22 eighteen (18) years of age or permits a person under eighteen (18) years of
23 age to play a lottery is guilty of a Class A misdemeanor.

24 (b) It is an affirmative defense to a prosecution under this section
25 that the retailer reasonably and in good faith relied upon representation of
26 proof of age in making the sale.

27
28 23-115-902. Fraud – Penalty.

29 (a)(1) A person who, with a purpose to defraud, falsely makes, alters,
30 forges, utters, passes, or counterfeits a ticket is guilty of a Class D
31 felony.

32 (2) A person convicted for violating subdivision (a)(1) of this
33 section is subject to an additional fine of not more than fifty thousand
34 dollars (\$50,000).

35 (b)(1) A person who purposely influences or attempts to influence the
36 winning of a lottery prize through the use of coercion, fraud, deception, or

tampering with lottery equipment or materials is guilty of a Class D felony.

(2) A person convicted for violating subdivision (b)(1) of this section is subject to an additional fine of not more than fifty thousand dollars (\$50,000)

23-115-903. False statement on license application – Penalty.

(a) A person shall not knowingly make:

(1) A material false statement in an application for a license or proposal to conduct a lottery; or

(2) A material false entry in any book or record that is compiled or maintained or submitted to the Arkansas Lottery Commission.

(b)(1) A person who violates this section is guilty of a Class D felony.

(2) A person convicted for violating subdivision (a) of this section is subject to an additional fine of not more than twenty five thousand dollars (\$25,000) or the dollar amount of the false entry or statement, whichever is greater.

23-115-904. Inconsistent statutes inapplicable.

(a) Section 5-66-101 et seq. and all other laws and parts of laws inconsistent with any of the provisions of this chapter are expressly declared not to apply to any person engaged in, conducting, or otherwise participating in lotteries as authorized by this chapter.

(b) No person shall be guilty of any criminal offense set forth in § 5-66-101 et seq. or any other law relating to illegal gambling to the extent the person relied on any rule, order, finding, or other determination by the Arkansas Lottery Commission that the activity was authorized by this chapter.

SUBCHAPTER 10

DEBTORS OWING MONEY TO THE STATE

23-115-1001. Legislative intent.

(a) The purpose of this subchapter is to establish:

(1) A policy and to provide a system whereby all claimant agencies of this state in conjunction with the Arkansas Lottery Commission shall cooperate in identifying debtors who owe money to the state through its

1 various claimant agencies or to persons on whose behalf the state and its
2 claimant agencies act and who qualify for lottery prizes under this chapter
3 from the commission; and

4 (2) Procedures for setting off against any prize the sum of any
5 debt owed to the state or to persons on whose behalf the state and its
6 claimant agencies act.

7 (b) This subchapter shall be liberally construed to effectuate the
8 purposes stated in subsection (a) of this section.

9
10 23-115-1002. Definitions.

11 (a) As used in this subchapter:

12 (1) "Claimant agency" means a state agency, department, board,
13 bureau, commission, or authority:

14 (A) To which a person owes a debt; or

15 (B) That acts on behalf of a person to collect a debt;

16 (2) "Debt" means a:

17 (A) Liquidated sum due and owing any claimant agency, when
18 the sum has accrued through contract, subrogation, tort, or operation of law
19 regardless of whether there is an outstanding judgment for the sum; or

20 (B) Sum that is due and owing any person and is
21 enforceable by the state;

22 (3) "Debtor" means an individual owing money to or having a
23 delinquent account with a claimant agency, when the obligation has not been;

24 (A) Adjudicated as satisfied by court order;

25 (B) Set aside by court order; or

26 (C) Discharged in bankruptcy; and

27 (4) "Prize" means the proceeds of any lottery prize awarded
28 under this chapter.

29
30 25-115-1003. Collection remedy.

31 The collection remedy authorized by this subchapter is in addition to
32 and not in substitution for any other remedy available by law.

33
34 25-115-1004. List of debtors – Withholding winnings – Ranking of
35 liens.

36 (a)(1) A claimant agency may submit to the Arkansas Lottery Commission

1 a list of the names of all persons owing debts in excess of one hundred
2 dollars (\$100) to the claimant agency or to persons on whose behalf the
3 claimant agency is acting.

4 (2) The full amount of the debt is collectable from any prize
5 without regard to limitations on the amounts that may be collectable in
6 increments through garnishment or other proceedings.

7 (3) The list shall constitute a valid lien upon and claim of
8 lien against the prize of any debtor named in the list.

9 (4) The list shall contain:

10 (A) The name of the each debtor;

11 (B) The social security number of each debtor if
12 available; and

13 (C) Any other information that would assist the commission
14 in identifying each debtor named in the list.

15 (b)(1) The commission shall withhold any prizes subject to the lien
16 created by this section and send notice to the winner by certified mail,
17 return receipt requested, of the action and the reason the prizes were
18 withheld.

19 (2)(A) However, if the winner appears and claims prizes in
20 person, the commission shall notify the winner at that time by hand delivery
21 of the action.

22 (B) If the debtor does not protest the withholding of the
23 prizes in writing within thirty (30) days of the notice, the commission shall
24 pay the prizes to the claimant agency.

25 (C) If the debtor protests the withholding of the prizes
26 within thirty (30) days of the notice, the commission shall:

27 (i) File an action in interpleader in the circuit
28 court of the county where the debtor resides;

29 (ii) Pay the disputed sum into the registry of the
30 court; and

31 (iii) Give notice to the claimant agency and debtor
32 of the initiation of the action.

33 (c) The liens created by this section are ranked by priority as
34 follows:

35 (1) Taxes due the state;

36 (2) Delinquent child support; and

1 (3) All other judgments and liens in order of the date entered
2 or perfected.

3 (d) The commission is not required to deduct claimed debts from prizes
4 paid out by retailers or entities other than the commission.

5 (e) Any list of debt provided under this section shall be provided
6 periodically as the commission shall provide by rule, and the commission is
7 not obligated to retain the lists or deduct debts appearing on the lists
8 beyond the period determined by the rules.

9 (f) The commission may prescribe forms and promulgate rules it deems
10 necessary to implement this section.

11 (g) The commission and any claimant agency shall incur no civil or
12 criminal liability for good faith adherence to this section.

13 (h) The claimant agency shall pay the commission for all costs
14 incurred by the commission in setting off debts in the manner provided in
15 this subchapter.

16
17 25-115-1005. Confidential information.

18 (a)(1) Notwithstanding any other confidentiality statute, the Arkansas
19 Lottery Commission may provide to a claimant agency all information necessary
20 to accomplish and effectuate the intent of this subchapter.

21 (2) Information shall be used by a claimant agency only in the
22 pursuit of its debt collection duties and practices.

23 (b) Confidential information obtained by a claimant agency from the
24 commission under this section shall retain its confidentiality.

25 (c) An employee or prior employee of a claimant agency who unlawfully
26 discloses any information for any other purpose, except as otherwise
27 specifically authorized by law, is guilty of a Class A misdemeanor.

28
29 25-115-1006. Application.

30 This subchapter applies only to prizes of more than five hundred
31 dollars (\$500).

32
33 SUBCHAPTER 11

34 ARKANSAS LOTTERY COMMISSION LEGISLATIVE OVERSIGHT COMMITTEE

35
36 23-115-1101. Arkansas Lottery Commission Legislative Oversight

1 Committee.

2 (a) The Arkansas Lottery Commission Legislative Oversight Committee is
3 established.

4 (b) The committee shall consist of ten (10) members of the General
5 Assembly appointed as follows:

6 (1) Five (5) members of the House of Representatives shall be
7 appointed by the Speaker of the House of Representatives; and

8 (2) Five (5) members of the Senate shall be appointed by the
9 President Pro Tempore of the Senate.

10 (c) In making appointments, each appointing officer shall select
11 members who have appropriate experience and knowledge of the issues to be
12 examined by the committee and shall strive to ensure racial, gender, and
13 geographical diversity among the membership.

14 (d) The committee shall:

15 (1) Review whether expenditures of lottery proceeds have been in
16 accordance with this chapter;

17 (2) Study ways to ensure that net proceeds from the lottery
18 shall not be used to supplant education funding but to provide additional
19 funding for education;

20 (3) Review proposed rules of the Arkansas Lottery Commission;
21 and

22 (4) Review proposed major procurement contracts; and

23 (5) Study other lottery matters as the committee considers
24 necessary to fulfill its mandate.

25 (e)(1) The committee shall report its analysis and any findings and
26 recommendations to the General Assembly by September 15 of each year.

27 (2) The committee may make interim reports to the General
28 Assembly regarding the expenditure of net lottery revenues.

29 (f)(1) The President Pro Tempore of the Senate and the Speaker of the
30 House of Representatives shall each designate a cochair of the committee.

31 (2) The committee shall meet at least quarterly upon the joint
32 call of the cochairs.

33 (3) Six (6) members of the committee constitute a quorum.

34 (4) No action may be taken except by a majority vote at a
35 meeting at which a quorum is present.

36 (g) Members of the committee are entitled to per diem and mileage at

1 the same rate authorized by law for attendance at meetings of interim
2 committees of the General Assembly and shall be paid from the same source.

3
4 SECTION 2. Arkansas Code 5-66-110(a), concerning the prohibition on
5 the game of keno, is amended to read as follows:

6 (a)(1) If Except as provided in the Arkansas Scholarship Lottery Act,
7 § 23-115-101 et seq, if any person sets up or exhibits, or causes to be set
8 up or exhibited, or aids or assists in setting up or exhibiting in any
9 county, city, or town in the state, any gaming device commonly known and
10 designated as "keno" or any similar device, by any other name or without a
11 name, any person so setting up or exhibiting the gaming device, or aiding or
12 assisting in exhibiting or setting up the gaming device, is guilty of a
13 misdemeanor.

14 (2) On indictment and conviction before the circuit court or on
15 conviction before a justice of the peace, the person shall be fined in any
16 sum not less than two hundred dollars (\$200) for benefit of the common school
17 fund.

18
19 SECTION 3. Arkansas Code Title 5, Chapter 66, Subchapter 1 is amended
20 to add an additional section to read as follows:

21 5-66-120. Application to Arkansas Scholarship Lottery Act.
22 No provision of this subchapter shall be deemed to apply to the conduct
23 of lotteries under the Arkansas Scholarship Lottery Act, § 23-115-101 et seq.

24
25 SECTION 4. Arkansas Code § 10-3-314 is amended to read as follows:

26 10-3-314. Report on claim filed with State Claims Commission.

27 (a) It Except as provided by subsection (b) of this section, it is the
28 intent of the General Assembly that when any state agency, board, commission,
29 or institution of higher education admits liability to a claim filed with the
30 State Claims Commission and the claim involves a contract with a state
31 agency, board, commission, or institution of higher education or the claim
32 exceeds seven thousand five hundred dollars (\$7,500) that such agency, board,
33 commission, or institution of higher education file a written report thereof
34 with the Litigation Subcommittee of the Legislative Council. The report shall
35 include a concise statement of facts with an explanation of the agency's
36 liability. Provided further, such report shall be filed with the litigation

1 subcommittee within thirty (30) days after the claim has been adjudicated by
2 the State Claims Commission.

3 (b) The Arkansas Lottery Commission shall file its written report
4 under subsection (a) of this section with the Arkansas Lottery Commission
5 Legislative Oversight Committee.

6
7 SECTION 5. Arkansas Code § 26-18-1001 is amended to read as follows:
8 26-18-1001. Business closure authority – Notice.

9 (a) In addition to all other remedies provided by law for the
10 collection of unpaid taxes, the Director of the Department of Finance and
11 Administration may close the business of a noncompliant taxpayer as defined
12 by § 26-18-104, subject to the administrative and judicial appeal procedures
13 in this subchapter, if the noncompliant taxpayer for three (3) times within
14 any consecutive twenty-four-month period fails to either:

15 (1) Report gross receipts or compensating use tax in the manner
16 required by Arkansas law; or

17 (2) Remit gross receipts or compensating use tax for the
18 reporting period that the tax is due.

19 (b)(1) The director shall give notice to the noncompliant taxpayer
20 that the third delinquency in reporting or remitting tax in any consecutive
21 twenty-four-month period will result in the closure of the business.

22 (2) The notice must be in writing and delivered to the
23 noncompliant taxpayer by the United States Postal Service or by hand
24 delivery.

25 (c)(1) If the noncompliant taxpayer has a third delinquency in
26 reporting or remitting tax in any consecutive twenty-four-month period after
27 the issuance of the notice provided in subsection (b) of this section, the
28 director shall notify the noncompliant taxpayer by certified mail or by hand
29 delivery that the business will be closed within five (5) business days from
30 the date of the notice unless the noncompliant taxpayer makes arrangements
31 with the director to satisfy the tax delinquency.

32 (2) When the fifth day falls on a Saturday, Sunday, or legal
33 holiday, the performance of the act is considered timely if it is performed
34 on the next succeeding business day that is not a Saturday, Sunday, or legal
35 holiday.

36 (d) A noncompliant taxpayer may avoid closure of the business by:

1 (1) Filing all delinquent reports and by remitting the
2 delinquent tax including any interest and penalty; or

3 (2) Entering into a payment agreement approved by the director
4 to satisfy the tax delinquency.

5 (e) The Director of the Department of Finance and Administration may
6 pursue a remedy under this subchapter against a lottery retailer upon
7 receiving a referral from the Arkansas Lottery Commission under § 23-115-605.
8

9 SECTION 6. NOT TO BE COFIDIED. Initial appointments to the Arkansas
10 Lottery Commission under § 23-115-202 shall be made within thirty (30) days
11 of the effective date of this act.
12

13 SECTION 7. If any provision of this Act or its application to any
14 person or circumstance is held invalid, the invalidity does not affect other
15 provisions or applications of this Act which can be given effect without the
16 invalid provision or application, and to this end the provisions of this Act
17 are severable under Arkansas Code § 1-2-117.
18

19 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
20 General Assembly of the State of Arkansas that the people of the State of
21 Arkansas overwhelmingly approved the establishment of state lotteries at the
22 2008 General Election, that state lotteries will provide funding for
23 scholarships to citizens of this state, and that the state lotteries should
24 be implemented as soon as possible to effectuate the will of the citizens of
25 this state and implement lottery-funded scholarships as soon as possible.
26 Therefore, an emergency is declared to exist and this act being immediately
27 necessary for the preservation of the public peace, health, and safety shall
28 become effective on:

29 (1) The date of its approval by the Governor;

30 (2) If the bill is neither approved nor vetoed by the Governor,
31 the expiration of the period of time during which the Governor may veto the
32 bill; or

33 (3) If the bill is vetoed by the Governor and the veto is
34 overridden, the date the last house overrides the veto.
35
36